

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RAZBERRY JOHNSON, # 279328,)	
)	
Petitioner,)	
)	
v.)	CASE NO. 2:21-CV-341-WKW
)	[WO]
DEBORAH TONEY, warden, and)	
STEVEN T. MARSHALL, Attorney)	
General for the State of Alabama,)	
)	
Respondents.)	

ORDER

On November 10, 2022, the Magistrate Judge filed a Recommendation to which no timely objections have been filed. (Doc. # 20.) Upon an independent review of the record, it is ORDERED that the Recommendation is ADOPTED, that Petitioner's 28 U.S.C. § 2254 motion is DENIED, and that this action is DISMISSED with prejudice.

A certificate of appealability will not be issued. For a petitioner to obtain a certificate of appealability, he must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This showing requires that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529

U.S. 473, 484 (2000) (citation and internal quotation marks omitted). And, where a petition is denied on procedural grounds, he “must show not only that one or more of the claims he has raised presents a substantial constitutional issue, but also that there is a substantial issue about the correctness of the procedural ground on which the petition was denied.” *Gordon v. Sec’y, Dep’t of Corrs.*, 479 F.3d 1299, 1300 (11th Cir. 2007) (citations omitted). “A ‘substantial question’ about the procedural ruling means that the correctness of it under the law as it now stands is debatable among jurists of reason.” *Id.* Because reasonable jurists would not find the denial of Petitioner’s § 2254 petition debatable, it is ORDERED that a certificate of appealability is DENIED.

Final judgment will be entered separately.

DONE this 7th day of December, 2022.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE